S.B. CIVIL WRIT PETITION No.2059/1999
M/s SERAVE ALL LAND DEVELOPERS Pvt. Ltd. &
Anr. V/s ASSISTANT DIRECTOR & Anr.

9.1.2007

HON'BLE MR. JUSTICE MOHAMMAD RAFIQ

Shri G.K.Garg for the petitioner.
Shri B.S. Chhaba, Dy. G.A.

Heard learned counsel for the parties.

Petitioner has filed this petition assailing the orders Annex 1 dated 10.3.99 and Annex. 2 dated 20.3.99, by which the petitioner has been required to pay the land and building tax in respect of the assessment year 1997-1998 for amount of Rs.7,09,158 and 1998-1999 for amount of Rs.7,09,158/-. Although this writ petition was filed way back in the year 1999 but some of the arguments which the learned counsel for the petitioner has raised, requires examination of factual aspects. It would therefore be appropriate that they first receive consideration of the appellate

authority having statutory power to hear the appeal against such orders. Learned counsel for the petitioner however submits that on account of condition of pre-deposit requiring the assessee to make payment entire tax assessed prior to preferring the appeal is quite onerous, therefore appeal is not an efficacious remedy.

On perusal of the records, I find that this petition was filed on 7.4.99. When in spite of notice no one appeared on behalf of the respondents, this court vide its order dated 13.8.99 stayed operation of both the aforesaid assessment orders. In the circumstances however, it would be appropriate to relegate the petitioner to the remedy of appeal. Instead of requiring him to deposit the whole amount of the assessed tax, in the facts and circumstances of the case, particularly when

the assessment of the year 1994-95 the tax was assessed only at Rs.4,72,772/-, it would be appropriate to direct the petitioner to deposit the same amount of Rs.4,72,772/- in respect of each of the above two assessment years. The petitioner may file an appeal along with the proof of pre-deposit of such amount within two months. The same shall be decided by the appellate authority within the period of six months thereafter.

With these observations and directions, the writ petition is disposed of.

(MOHAMMAD RAFIQ),J.

CHAUHAN/